1 HONORABLE BENJAMIN H. SETTLE 2 3 4 5 6 UNITED STATES DISTRICT COURT 7 WESTERN DISTRICT OF WASHINGTON AT TACOMA 8 HP TUNERS, LLC, a Nevada limited liability) 9 company, NO. 3:17-cv-05760-JRC 10 Plaintiff, MOTION TO MODIFY EXPERT **DISCLOSURE DEADLINES** 11 VS. 12 NOTE ON MOTION CALENDAR: KEVIN SYKES-BONNETT. SYKED ECU July 27, 2018 13 TUNING INCORPORATED, a Washington corporation, and JOHN MARTINSON, 14 Defendants. 15 16 NOW COMES Plaintiff HP Tuners, LLC ("HPT") for its Motion to modify Expert 17 Disclosure Deadlines entered in this case. In support thereof, Plaintiff states as follows: 18 1. On December 26, 2017, this Court entered a Scheduling Order. 19 2. Since that time, the parties have been engaged in written discovery. 20 3. On July 13, 2018, Defendants finally produced documents in response to 21 Plaintiff's document requests, which had been outstanding for several months. 22 4. Since that time, Plaintiff has working expeditiously to review the documents 23 produced. Based on Plaintiff's review to date, the document production is incomplete and insufficient in several material respects. For example, specific documents relating to the 24

Defendants' software at issue have not been produced. Once Plaintiff has completed the review

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of the document production, Plaintiff will attempt to engage in a meet and confer regarding the insufficiency of the production.

- 5. In connection with oral discovery, Plaintiff has been seeking dates for the depositions of Defendants Kevin Sykes-Bonnett and John Martinson since April 2018.
- 6. While Defendants had offered dates in July for the depositions, counsel for Plaintiff was not available to take the depositions on those dates and Plaintiff had not received Defendants' documents in response to Plaintiff's document requests until July 13, 2018.
- 7. Now, counsel for Defendants has advised that Defendants Kevin Sykes-Bonnett and John Martinson are not available for depositions until late September 2018. Plaintiff is attempting to schedule the depositions for September 25, 2018 and September 26, 2018.
- 8. The Scheduling Order provides that Expert Witness Disclosure/Reports under FRCP 26(a)(2) are due by July 23, 2018 and Rebuttal Expert Disclosure/Reports are due by August 22, 2018.
- 9. Given Defendants' (incomplete) document production last week on July 13, 2018 and that the depositions of Defendants Kevin Sykes-Bonnett and John Martinson will not be proceeding until late September 2018, Plaintiff requests that the Expert Disclosure Deadline and the Rebuttal Expert Disclosure Deadline be extended to October 15, 2018 and November 15, 2018, respectively.
- 10. It is necessary for Plaintiff to obtain compliance with the document requests and to take the depositions of the Defendants in order to prepare and provide its expert disclosures.
- 11. Plaintiff does not request modification of any of the other deadlines set forth in the Scheduling Order.
- 12. On July 18, 2018, Counsel for Plaintiff conferred with counsel for Defendant regarding this issue and counsel for Defendant did not agree to a modification of these deadlines.

1	13.	13. This motion is not being brought for improper purposes or for purposes of delay.			
2	There is no prejudice to Defendants in granting the relief requested herein.				
3	14. Based on the foregoing, Plaintiff wishes to modify the schedule as follows:				
4	CURRENT	T DEADLINE		PROPOSED DEADLINE	
5	Expert Wi	tness Disclosure/Report due by 7/23	3/2018	October 15, 2018	
6	Rebuttal E	xpert Witness Disclosure/Report d	ue by 8/22/2018	November 15, 2018	
7	WHEREFORE, Plaintiff respectfully prays for an order extending the Expert Disclosure				
8	Deadline and the Rebuttal Expert Disclosure Deadline be extended to October 15, 2018 and				
9	November	15, 2018, respectively.			
10			Dated: July 18, 20	018	
11				ΓER, JAHN, LEATHAM,	
12			HOLTMANN &	STOKER, P.S.	
13			<u>s/Stephen G. Lea</u> Stephen G. Leath	<i>tham</i> am, WSBA #15572	
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16			Facsimile: (360)		
17				an (admitted pro hac vice)	
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19			Northbrook, Illino (312) 206-5162	ois 60062	
20			E-mail: <u>andrew@</u> Attorneys for Plan		
21			HP Tuners, LLC		
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1 **CERTIFICATE OF SERVICE** 2 I hereby certify that on July 18, 2018, I caused the foregoing to be electronically filed 3 with the Clerk of the Court using the CM/ECF system which will send notification of such filing 4 to all Counsel of Record. 5 HEURLIN, POTTER, JAHN, LEATHAM, HOLTMANN & STOKER, P.S. 6 s/ Stephen G. Leatham 7 Stephen G. Leatham, WSBA #15572 211 E. McLoughlin Boulevard, Suite 100 8 Vancouver, WA 98663 Telephone: (360) 750-7547 9 Fax: (360) 750-7548 E-mail: sgl@hpl-law.com 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25